THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.24571 of 2005

Dated:14.09.2006

Between

L.Brahma Reddy

…..Petitioners

and

1.The Joint Collector, Machilipatnam,
Krishna District and others.

…Respondents

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.24571 of 2005

ORDER:

This writ petition is filed seeking a Mandamus to declare the proceedings No.E2/301/2003, dated 13.10.2003 passed by the 3rd respondent as illegal and arbitrary.

It appears that the petitioner is a kerosene hawker and having valid licence under the A.P. Petroleum Products (Licensing and Regulation of Supplies) Order, 1980 for distribution of kerosene to the card holders of Cheruvu Madhavaram village, G.Konduru Mandal, Krishna District. The said licence was cancelled by the 1st respondent *vide* proceedings dated 1.4.2003 stating as under:

> "This case was taken up for hearing on 31.3.2003. I have heard the hawker personally. He has denied all the charges made against him and requested to restore his licence. There is a clear evidence from the statements recorded by the inspecting staff from certain card holders that the hawker was collecting higher

prices than the price fixed by the Government and also not maintaining timings for distribution of kerosene oil as fixed by the Government. The record of evidence is against the explanation offered by the hawker at the time of personal hearing and it is not convincing regarding sale of kerosene oil at higher prices, non-maintenance of timings as fixed by the Government. Thus the hawker has violated Cl.13 and 20 (1) and 20 (3) of A.P. Petroleum Products (L & RS) Order, 1930 and conditions 3 (a) (iii), 8,9,11 of the licence issued under above said order. As such, continuing him as hawker is detrimental to the public distribution system.

In the above circumstances it is decided to cancel the licence issued in favour of the above hawker as he has contravened conditions 3 (a)(iii), 8,9,11 of the licence issued in favour of him under A.P. Petroleum Products (L& RS) Order, 1980.

In exercise of the powers conferred under clause 28(1) of A.P. Petroleum Products Order, 1980 it is hereby ordered for cancellation of the licence issued in favour of Sri L.Brahma Reddy, Kerosene hawker, Cheruvu Madhavaram village of G.Konduru Mandal with immediate effect. It is also ordered for the forfeiture of the security deposit Rs.100/- of the hawker for the above contravention."

Aggrieved by the same, the petitioner carried the matter in appeal before the 3rd respondent-Director of Civil Suplies, Hyderabad, who confirmed the order passed by the 1st respondent. Aggrieved thereby, the present writ petition is filed.

A perusal of the order dated 1.4.2003 goes to show that after issuance of show cause notice on 6.3.2003 by the 1st respondent, the petitioner was heard personally. But, it does not reflect as to what exactly is the evidence placed before it to come

to a conclusion that the petitioner has committed certain irregularities and therefore, the licence held by the petitioner is liable to be cancelled. The 1st respondent simply stated that there is a clear evidence from the statements recorded by the inspecting staff from certain card holders that the hawker was collecting higher prices than the price fixed by the Government and also not maintaining timings for distribution of kerosene oil as fixed by the Government. Except the said allegation, there is no other acceptable evidence either oral or documentary in this regard. Apart from this, other charges not only vogue, unspecific and ambigious but also trivial. On these findings, the licence of the petitioner ought not to have been cancelled. I am of the opinion that the order passed by the 1st respondent is arbitrary and illegal and is not supported by any convincing and cogent reasons, therefore, the same is liable to be set aside.

Inasmuch as the licence of the petitioner was cancelled with effect from 1.4.2003, and three years have lapsed, no purpose would be served if the matter is remitted for reconsideration, even if the charges need any enquiry. I am of the opinion that the suspension of petitioner's licence for the period from 1.4.2003 till date, as a measure of punishment, would meet the ends of justice. Therefore, the respondent authorities are directed to treat the period of suspension from 1.4.2003 till date as a measure of punishment to the petitioner and restore his licence forth with.

Accordingly, the writ petition is allowed. The order passed by the 1st respondent dated 1.4.2003 as confirmed by the 3rd

respondent dated 13.10.2003 are set aside. No costs.

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14.09.2006

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